



Dec 13, 2022

FOIA REQUEST
EPA Headquarters

Dear FOIA Officer:

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, I request these 14 documents with the following bates numbers:

ED_005729A_00001289-00004
ED_005729A_00001244-00004
ED_005729C_00000038-00003
ED_005729A_00000283-00001
ED_005729A_00000795_00001
ED_005729A_00000181-00003
ED_005729A_00000800-00001
ED_005729A_00000179-00001
ED_005728C_00000031-00001
ED_005729A_00000030-00001
ED_005729A_00001269-00001
ED_005729A_00001140-00001
ED_005729A_00001145-00001
ED_005729A_00000909-00001

These documents were previously released in response to FOIA number EPA-2021-003431. That FOIA request asked for:

1. All records of EPA, EPA staff, Department of State, or Department of State staff, including but not limited to internal and external communications and the records of Karissa Kovner, reflecting or relating to the consideration of the proposed listing of Dechlorane Plus to the Stockholm Convention on Persistent Organic Pollutants, including but not limited to all records relating to the draft risk profile of Dechlorane Plus prepared by the intersessional working group of the Persistent Organic Pollutants Review Committee of the Stockholm Convention, and
2. All records of EPA or EPA staff reflecting or related to toxicological reviews of Dechlorane Plus, whether undertaken by EPA staff or outside parties. This request includes, but is not limited to, the toxicological review referenced in a February 18, 2021 e-mail from Karissa Kovner.

I am concerned that the 14 documents I am requesting appear to be improperly redacted, with many names redacted with the explanation “deliberative process.” As you know, this exemption protects “documents reflecting advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated.” Purely factual material **“that does not reveal the deliberative process is not protected by this exemption.”** (*Morley*, 508 F.3d at 1127 (quoting *Paisley v. CIA*, 712 F.2d 686, 698 (D.C. Cir. 1983), *vacated in part on other grounds*, 724 F.2d 201 (D.C. Cir. 1984) (internal quotation marks omitted))).

Here are my specific concerns about each of the requested documents:

ED_005729A_00001289-00004. This document begins with “I’ll copy REDACTED on the one to REDACTED,” which appears to be the redaction of two names. Lower down on the same page is another example, “Got it. I copied you on a note to REDACTED.”

ED_005729A_00001244-00004. On page one of four, Laura Nazef writes: “I think REDACTED is the POPRC member”

Karissa Kovner writes: I think we need to reach out to REDACTED on this. And maybe REDACTED. Who is the lead on REDACTED?

ED_005729C_00000038-00003 This document, titled “Summary of Main OCSPP International Activities” is almost entirely redacted. It does not appear to be predecisional — it is simply a summary, as the title states — and therefore should not be protected by the deliberative process privilege.

ED_005729A_00000283-00001 This document also redacts a name. In the email from Amber Aranda on page one of three, she says “I would have in the past sent this to REDACTED”

ED_005729A_00000795_00001 This document redacts the email address of a recipient of Tala Henry’s email on page one of three

ED_005729A_00000181-00003 This document redacts the email address of the sender and one of the recipients on the top of page 1. Both are marked “deliberative process.” The signature on the bottom of the email is also redacted. Again, these are all marked “deliberative process” despite the fact that these names are purely factual information. Names and email addresses are also redacted throughout page 2 of this document.

ED_005729A_00000800-00001 The recipient of the email on page 1 of 2 in this document is redacted as “deliberative process.”

ED_005729A_00000179-00001 In this document, several senders and recipients of emails are redacted.

ED_005728C_00000031-00001 This document, titled “Summary of Main OCSPP International Activities” is almost entirely redacted. It does not appear to be predecisional — it is simply a summary, as the title states — and therefore should not be protected by the deliberative process privilege.

ED_005729A_00000030-00001 This document, titled "EPA Readout from POPRC-16 Meeting" does not appear to be predecisional. It is reporting on what has happened at the already completed meeting. As such, the four redactions — all marked as "deliberative process" are not justified.

ED_005729A_00001269-00001 The name of the sender of the email is redacted on the bottom of page 1 of 5, as are the names of senders and recipients of several emails throughout this document. They are all marked as "deliberative process." On page 4, in an email from Karissa Kovner, the name of the recipient is redacted, as well as the name of another person mentioned in the email.

ED_005729A_00001140-00001 In this document, the names of the senders and recipients of several emails are redacted as is the name in an email sent by Kovner that says "Dear REDACTED, Happy new year!"

ED_005729A_00001145-00001 This document redacts names of senders and recipients of several emails as "deliberative process." For example, on the top of page 1. Names in the signatures are also redacted as "deliberative process."

ED_005729A_00000909-00001 This document redacts a few words - perhaps a name or a subject - in a sentence. "REDACTED" has come up in our discussions.... It is not clear to me how this could be "deliberative process," as it is marked.

I would like to receive the information in the following format: electronic.

I am available to discuss the scope of the request and any questions by phone (718-877-5236) or email (sharon.lerner@propublica.org).

As a representative of the news media I am only required to pay for the direct cost of duplication after the first 100 pages. This information is being sought on behalf of ProPublica, an independent, non-profit news organization, for dissemination to the general public.

Please waive any applicable fees. Release of the information is in the public interest because it will contribute significantly to public understanding of government operations and activities. As a non-profit journalistic entity, ProPublica does not have the same commercial interests of other news organizations.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the Act. I will also expect you to release all segregable portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

I also ask that this request be expedited under terms of the Freedom of Information Act. Expedited processing is allowed for requests that show a "compelling need," and ProPublica is primarily engaged in disseminating information, with an urgency to inform the public concerning federal government activity.

As the Act states, you have 10 days to decide whether to grant expedited processing.

Our rationale for expedited processing under the “compelling need” stipulation is as follows:

There is a compelling need to understand as much as possible about the EPA’s role in the global regulation of chemicals. Such decisions can have health impacts for people throughout the world. It is also critical to ensure that these documents are not improperly preventing the public from receiving information about this process.

ProPublica is a non-profit, investigative newsroom primarily engaged in disseminating information in the public interest. Since we began publishing in 2008, ProPublica has received six Pulitzer Prizes, eight George Polk Awards, and four Peabody Awards, among other recognitions of journalistic excellence. We publish content daily on our website, propublica.org. Our newsroom has been actively covering biosecurity issues, and in requesting these records, would primarily engage in disseminating information (i.e., reviewing and reporting on these records and sharing our findings with the public) where there is “an urgency to inform the public concerning actual or alleged Federal Government activity,” as the compelling need provision requires.

I certify that my statements concerning the need for expedited processing are true and correct to the best of my knowledge and belief.

I look forward to your reply, as the statute requires.

Thank you for your assistance.

Sincerely,

Sharon Lerner
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